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State of Utah

DEPARTMENT OF NATURAL RESOURCES Division of Water Rights

ROBERT L. MORGAN
Executive Director

JERRY D. OLDS
State Engineer/Division Director

STATE OF UTAH DIVISION OF WATER RIGHTS

DIVISION OF WATER RIGHTS,
JERRY D. OLDS
STATE ENGINEER,

Claimant

v.

Patrick R. & Kathryn L. Yardley, Trustees
Patrick R. & Kathryn L. Yardley Living Trust

Respondent.

MEASURING DEVICE NOTICE

No. SEAA 1070

TO: Patrick R. & Kathryn L. Yardley, Trustees; Patrick R. & Kathryn L. Yardley Living Trust

It has come to the attention of the Division of Water Rights (Division) that the Patrick R. & Kathryn L. Yardley, Trustees; Patrick R. & Kathryn L. Yardley Living Trust (Yardley) well, located in the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 24, Township 29 South, Range 8 West, Salt Lake Base & Meridian, is not equipped with a water meter and is not currently regulated by the water commissioner.

Inspection of the well and review of the water right records by Division staff indicates: the well is capable of producing a substantial flow of water; it discharges into and provides supplemental water to the Yardley's ditch; and, the only water right currently in the well is 77-1845 (a26954) which is limited to supply 1.0 acre-foot of water per year for the stock watering requirements of 36 head of cattle or horses (or equivalent).

Given these circumstances, the potential exists that the well could easily be pumped beyond the limitations of the water right. To guard against that possibility, the well will be included in the Beaver River Distribution System, an assessment account will be established for it, and the water commissioner will regulate it and limit its use to 1.0 acre-foot per year until and unless valid rights are provided for additional water diversion and use. Regulation of the well will require that it be equipped with a properly installed and maintained water meter.

Section 73-5-4 of the Utah Code Annotated, 1953 as amended, states in part:

"Every person using water in this state shall construct or install and maintain a substantial head gate, cap, valve or other controlling works, weir, flume and measuring device at each point where water is diverted or turned out, for the purpose of regulating and measuring the quantity of water that may

be used. Such controlling works or measuring device shall be of such design as the state engineer may approve and so that the same can be locked and kept set by him or his assistants... If the owner of irrigation works, canals, reservoirs, wells, pumps or tunnels shall refuse or neglect to construct such headgates, caps, valves, flumes or measuring devices after thirty days notice to do so by the state engineer, the state engineer may forbid the use of water until the user thereof shall comply with this requirement, or the state engineer may proceed to construct or install or cause to be installed such controlling works or measuring devices, and the cost of the same shall be a lien against the lands and water rights served thereby, and the state engineer is authorized to bring such action in the name of the state to foreclose such lien."

Therefore, you are hereby notified that your well must be equipped with a totalizing water meter that is properly installed and perpetually maintained according to the manufacturer's specifications. The meter must provide readout in acre-feet or other units readily convertible to acre-feet and must be made available to the commissioner for taking water use readings. The water meter must be properly installed within 30 days from the date of this notice.

The well will be inspected for compliance at the end of the 30-day period. If a water meter has not been installed, the State Engineer will issue an Order to Cease the Use of Water. If necessary, the State Engineer will seek a court order requiring the use of water be ceased until such time as the water meter is installed and working properly.

Thank you for your cooperation in attending to this matter in a timely manner. If you have any questions concerning this notice, please contact me by phone at 801-538-7380 or by e-mail at LeeSim@Utah.Gov or Kerry Carpenter, Regional Engineer, by phone at 435-586-4231 or by e-mail at KerryCarpenter@utah.gov.

Dated this 19th day of July, 2004.



Lee H. Sim, P.E.
Assistant State Engineer
For
Jerry D. Olds, P.E.
State Engineer

cc: Kerry Carpenter, Regional Engineer
Heather Shilton, Assistant Attorney General
Ron Roberts, Water Commissioner